

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JAMES H. GORBEY, JR., )  
Administrator of the )  
Estate of Marissa Rose )  
Fishman, Deceased, )  
Plaintiff, )  
v. ) C.A. No. 05-211 KAJ  
RICHARD LONGWILL, BARBARA )  
LONGWILL, AIR BASE CARPET )  
MART, INC., d/b/a Air Base )  
Distributing, Inc., d/b/a )  
Air Base Carpet Mart, AIR )  
BASE DISTRIBUTING, INC., )  
ASHLAND CONSTRUCTION )  
COMPANY, INC., JOSEPH )  
RIZZO & SONS CONSTRUCTION )  
VINCENT RIZZO CONSTRUCTION )  
CO., INC., d/b/a Ashland )  
Construction Co., Inc., )  
JOSEPH V. RIZZO, VINCENT )  
RIZZO, )  
Defendants. )

Deposition of ROCHELLE B. LONGWILL, taken  
pursuant to notice at the law offices of Murphy,  
Spadaro & Landon, 1011 Centre Road, Suite 210,  
Wilmington, Delaware, beginning at 3:15 p.m. on  
Tuesday, March 7, 2006, before Heather M.  
Triozi, Registered Professional Reporter,  
Certified Shorthand Reporter, and Notary Public.

1 was when you did find Marissa in the pool?

2 A. I don't.

3 Q. Okay. Well --

4 A. I don't know.

5 Q. According to the police report, it may or  
6 may not be accurate --

7 A. 10:13, 10:21.

8 Q. Do you know if it was sometime after  
9 10:00?

10 A. Sure. It must have been sometime after  
11 10:00, because when I think about it, I was  
12 probably at the hospital by 10:30.

13 Q. I'll represent to you that in all of the  
14 information that I've reviewed from the  
15 investigator for Sierra Claims Service, and the  
16 police report, and the statements that you have  
17 given, that your father has given, no one seems  
18 to be able to place Marissa, her whereabouts at  
19 any time after about 9:30 in the morning until  
20 she was found in the pool.

21 MR. LESSNER: There's no question  
22 pending.

23 BY MR. LANDON:

24 Q. Okay. That's just a representation that

1 I'm making.

2 I want you, for purposes of this  
3 next question, to assume that to be the case.

4 All right.

5 Do you have any reason or any  
6 knowledge from any source where anyone can place  
7 Marissa's whereabouts at any time between 10:30  
8 or between 9:30 a.m. and 10:13 a.m. in the  
9 morning?

10 MR. LESSNER: Objection; compound.  
11 Form.

12 BY MR. LANDON:

13 Q. You can answer the question.

14 MR. LESSNER: If you understand it.

15 THE WITNESS: If I'm understanding  
16 this clearly, you're saying have I spoken to  
17 anybody or figured out any point in time between  
18 9:30, and 10:00, or something the whereabouts --

19 BY MR. LANDON:

20 Q. 9:30 and 10:15 where anyone can say where  
21 Marissa was or what she was doing?

22 A. Not speaking to anybody, nor myself going  
23 back down with the kids. And -- no.

24 Q. Okay. So you would agree, then, as far as

1 you're concerned, and as far as you know, you  
2 yourself, there is no one that can identify where  
3 she was at any given time between 9:30 and 10:13?

4 MR. HART: Objection.

5 BY MR. LANDON:

6 Q. You can answer the question.

7 MR. LESSNER: If you understand it.  
8 You can ask him to repeat it.

9 THE WITNESS: Well, can you repeat  
10 the question?

11 BY MR. LANDON:

12 Q. Okay. As far as you know, no one can  
13 account for Marissa's whereabouts between 9:30  
14 a.m. and 10:13 a.m. that morning?

15 MR. LESSNER: The objection -- just  
16 so I'm clear, when you say no one can account,  
17 she's testifying as to her personal knowledge.  
18 Are you asking her whether she has knowledge of  
19 statements that somebody else has said?

20 BY MR. LANDON:

21 Q. Do you have any knowledge that anyone has  
22 any knowledge --

23 A. I don't have any knowledge.

24 Q. Hold on. Let me ask the question.

1                   Do you have any knowledge that there  
2 is any person on the planet that has any  
3 knowledge as to Marissa's whereabouts between  
4 9:30 a.m. and 10:13 a.m.?

5                   A. I don't know.

6                   Q. In other words, she could have been in  
7 that pool from 9:30 that morning or she could  
8 have been in that pool from --

9                   , MR. LESSNER: Objection. It calls  
10 for speculation. She can only testify as to what  
11 she knows.

12 BY MR. LANDON:

13                  Q. And I'm trying to get at what she knows  
14 from the opposite way from what she doesn't know.  
15 And what you don't know is you don't know what  
16 time Marissa actually got into that pool  
17 enclosure area --

18                  A. Correct.

19                  Q. -- and got into the pool?

20                  All right. Thank you.

21                  You don't know what time the door  
22 from the dining area to the pool area was opened,  
23 do you?

24                  MR. LESSNER: Objection; form.

1 I think you said do you not know.

2 MR. LANDON: No, I didn't.

3 BY MR. LANDON:

4 Q. Do you know what time the pool door --

5 A. I turned a corner, I saw a door open.

6 Q. Okay. And that door may have been opened  
7 for a minute, or it may have been opened for 45  
8 minutes for all you know?

9 A. I don't know.

10 Q. Okay. And you don't know who opened it,  
11 do you?

12 A. Correct.

13 Q. And you don't know whether it was opened  
14 multiple times that morning, or just one time, or  
15 two times, or three times that morning; correct?

16 A. Correct.

17 Q. Were any of your older kids capable of  
18 opening that door?

19 A. No.

20 Q. Is that because it was too heavy to open  
21 or --

22 A. There's a lock on the top.

23 Q. What if it's unlocked at the top, could  
24 your oldest child have opened the door?